

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARDINAL HEALTH 110,
Plaintiff,
v.
AMG PHARMACY, INC , et al.,
Defendants.

No. C 08-0788 JL

NOTICE

The Court received Defendants' ex parte application for an extension of time to respond to Plaintiff's motion for summary judgement and for continuance of the hearing date. The Court notes for the record that this ex parte application and accompanying declaration were filed on the day that Defendants' opposition was due, and were not accompanied by a proposed order. Defendants' motion violated both Civil Local Rule 6-3 and Civil Local Rule 7-10. Civil Local Rule 6-3(b) provides that a party filing a motion to enlarge or shorten time must deliver a copy of the motion, proposed order and supporting declaration to all other parties on the day the motion is filed. Plaintiff asserts that it was never served with a copy of Defendants' motion. Civil Local Rule 7-10 provides that, unless otherwise ordered by the assigned Judge, a party may file an ex parte motion, that is, a motion filed without notice to opposing party, only if a statute, Federal Rule, local rule or

1 Standing Order authorizes the filing of an ex parte motion in the circumstances and the
2 party has complied with the applicable provisions allowing the party to approach the Court
3 on an ex parte basis. The motion must include a citation to the statute, rule or order which
4 permits the use of an ex parte motion to obtain the relief sought. Defendants failed to cite
5 any statute, rule, or order which would authorize their filing an ex parte application for an
6 extension of time in this instance.

7 However, in the interests of resolving this case on its merits, this Court will continue
8 the hearing on Plaintiff's motion for summary judgment, previously noticed for hearing on
9 October 29, 2008, to November 12, 2008, at 9:30 a.m. Defendants' opposition shall be filed
10 and served on or before October 22, 2008 and Plaintiff's Reply, if any, shall be filed and
11 served on or before October 29, 2008.

12 There shall be no additional extensions of time for this motion.

13 **IT IS SO ORDERED.**

14 DATED: October 9, 2008

15 
16 James Larson
17 Chief Magistrate Judge

18
19
20 C-08-0788 NOTICE
21
22
23
24
25
26
27
28